

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-234-RJC-DSC**

MICHAEL TROCHE, individually)
and on behalf of all similarly situated)
individuals,)
Plaintiff,)
)
vs.)
)
BIMBO FOODS BAKERIES)
DISTRIBUTION, INC.,)
)
Defendant.)
_____)

ORDER

THIS MATTER comes before the Court sua sponte. On May 11, 2011 Plaintiff filed suit, individually and on behalf of other parties, in this Court alleging violations of the federal Fair Labor Standards Act (“FLSA”) as well as various North Carolina laws. On December 5, 2011, this Court, citing the principles of comity, transferred the case to the Eastern District of Pennsylvania where substantially similar litigation was pending. On May 24, 2013, the Eastern District of Pennsylvania dismissed Plaintiff’s claim under the FLSA thereby removing the primary basis for the transferal of the case to that district. Accordingly, the parties agreed and the Court ordered the case to be transferred back to this Court. (Doc. No. 22 at 3).

The sole federal claim having been dismissed, this Court cannot exercise jurisdiction under 28 U.S.C. § 1331 or 28 U.S.C. § 1367. The immediate question is whether this Court has jurisdiction to hear this case under 28 U.S.C. § 1332.

Accordingly, Plaintiff shall file within twenty-one (21) days of this order a Supplemental Brief to support jurisdiction in this case. Defendant shall have fourteen (14) days to respond to


Plaintiff's Briefing. Plaintiff shall have seven (7) days to reply to Defendant's Response.

IV. CONCLUSION

IT IS, THEREFORE, ORDERED that:

1. Plaintiff shall file a Supplemental Brief within twenty-one (21) days of this order supporting jurisdiction of this case by this Court.
2. Defendant shall have the opportunity to respond to Plaintiff's Brief within fourteen (14) days of filing.
3. Plaintiff shall have seven (7) days to reply to Defendant's Response.

Signed: June 18, 2013


Robert J. Conrad, Jr.
United States District Judge

